

**CITY OF MORGAN HILL
JOINT SPECIAL AND REGULAR CITY COUNCIL AND SPECIAL
REDEVELOPMENT AGENCY MEETING
MINUTES - DECEMBER 18, 2002**

CALL TO ORDER

Mayor/Chairperson Kennedy called the meeting to order at 6:02 p.m.

ROLL CALL ATTENDANCE

Present: Mayor/Chairperson Kennedy, Council/Agency Members Carr, Chang, Tate, Sellers

DECLARATION OF POSTING OF AGENDA

Deputy City Clerk/Deputy Agency Secretary Malone certified that the meeting's agenda was duly noticed and posted in accordance with Government Code 54954.2

City Council and Redevelopment Agency Action

CLOSED SESSIONS:

City Attorney/Agency Counsel Leichter announced the below listed closed session items. She indicated that a closed session, listed under the earlier 2:00 p.m. special meeting agenda, was continued to this time.

1.

CONFERENCE WITH LEGAL COUNSEL - ANTICIPATED LITIGATION

Significant Exposure/Initiation of Litigation

Authority: Government Code Sections 54956.9(b) & (c)

Number of Potential Cases: 4

2.

**CONFERENCE WITH LEGAL COUNSEL - POTENTIAL AND EXISTING LITIGATION:
CONFERENCE WITH REAL PROPERTY NEGOTIATORS**

Legal Authority: Government Code 54956.8 & 54956.9(a) & (c) (1 potential case)

Real Property(ies) involved: APN 728-31-007 & 008; 25.50 acres located on the southwesterly side of Cochrane Road (St. Louise Hospital property)

City Negotiators: Agency Members; Executive Director; Agency Counsel; F. Gale Conner, special counsel; Rutan & Tucker, special counsel

Case Name: San Jose Christian College v. City of Morgan Hill

Case Numbers: Ninth Circuit Court of Appeal No. 02-15693

Closed Session Topic: Potential Existing Litigation/Real Estate Negotiations

3.

EXISTING LITIGATION:

Case Title: Kennedy et al. v. Davis et al.

Case Name/No.: Santa Clara County Superior Court Case No. CV 803679

4.

EXISTING LITIGATION:

Case Title: Andrew Jones v. City of Morgan Hill

Case Number: WCAB 93300028; San Jose WCAB

City Negotiators: Helene Leichter; Mary Kaye Fisher

5.

CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION

Authority:	Government Code section 54956.9(a)
Case Name:	Hacienda Valley Mobile Estates v. City of Morgan Hill
Case Numbers:	Santa Clara County Superior CV 807708; Ninth Circuit Court of Appeal 02-15986

OPPORTUNITY FOR PUBLIC COMMENT

Mayor/Chairperson Kennedy opened the closed session items to public comment. No comments were offered.

ADJOURN TO CLOSED SESSION

Mayor/Chairperson Kennedy adjourned the meeting to closed session at 6:04 p.m.

RECONVENE

Mayor/Chairperson Kennedy reconvened the meeting at 7:04 p.m.

CLOSED SESSION ANNOUNCEMENT

City Attorney/Agency Counsel Leichter announced that there was no reportable action taken in closed session.

Mayor/Chairman Kennedy opened the closed session items to public comment. No comments were offered.

SILENT INVOCATION

PLEDGE OF ALLEGIANCE

At the invitation of Mayor/Chairperson Kennedy, Chief of Police Jerry Galvin led the Pledge of Allegiance.

PROCLAMATIONS

Mayor Kennedy presented Debbie Simon with a Certificate of Recognition for years of service with the City of Morgan Hill Police Department.

PRESENTATIONS

Billy Lewis, Chair and Christopher England, Vice-Chair of the Youth Advisory Committee, reported on their experiences at the September 2002 League of California Cities Conference. Mr. Lewis addressed community leadership, technology, and adaptive problems; while Mr. England addressed engaging the future, youth involvement in one's City and Carolyn A. Martin's (Dean of Faculty at Rainmaker Thinking Technology, Portland Oregon) five universal truths of youth.

The report from Brittany Bach, Youth Advisory Committee Presentation on Healthy Communities Health/Youth Conference was deferred.

CITY COUNCIL REPORT

Council Member Tate congratulated Therese Lugger and the Youth Advisory Committee on the outstanding job that was done on the Cultural Dance Program held on December 8, 2002 at the new Community and Cultural Center. He addressed the following: 1) Library Joint Powers Authority met last week in a special meeting to discuss a single subject matter: placing the continuation of the current parcel assessment for libraries within the Santa Clara County Joint Powers Authority Library District on the March 2004 ballot. He indicated that the Library Joint Powers Authority has launched a campaign effort to extend the parcel tax for the library that will expire in 2005. He stated that the new county librarian, Melinda Cervantes, attended this meeting. He noted that Ms. Cervantes does not officially start her new position until December 30, 2002. He met with her in advance of the special meeting and indicated that he spent time talking to her about her successful application of Proposition 14 funds for the Hercules Library project. He felt that she would be a valuable asset in terms of getting the City's application ready for the next round of Proposition 14 funding. 2) Last week, Council Member Sellers attended the last session of the Downtown Task Force, noting that the Downtown Plan is somewhat finalized in terms of including final input. 3) He indicated that he and Council Member Carr serve on the Economic Development Strategy Committee. He stated that this Committee has a couple of loose ends in terms of the Downtown Task Force that the Committee would like to look at in terms of prioritization of City assistance to the downtown to kick start the Downtown Plan. He said that the Committee would be meeting with some of the downtown property owners regarding economic development issues in order to get them further defined. 4) He and Council Member Carr also serve on the Measure P Update Committee. This Committee is interfaced with the Downtown Committee as well in terms of looking at facilitating/integrating housing into the downtown, both market and below rate market housing. He indicated that the Measure P Update Committee is not on target and that the Committee will be returning to the Council in January 2003 to update it on the schedule. He congratulated and praised City staff involved in the opening week activities at the Community and Cultural Center. He thanked staff for showing off this new public facility so well.

Mayor Kennedy also thanked and congratulated City staff for the wonderful job that they did on the Community and Cultural Center.

CITY MANAGER'S REPORT

City Manager Tewes indicated that traditionally, under the City Manager's Report, he would report on the State's budget problems. He stated that he has not had the opportunity to analyze the recently released Governor's budget. He indicated that staff would be reporting to the Council more formally at subsequent meetings. He invited Director of Public Works Ashcraft to report on the storm and flood control issues, specifically, how the City prepares for floods, how City staff responded to the recent rains, and the long range solutions being worked on.

Director of Public Works Ashcraft indicated that the good news is that the City has received over half the rainfall that it would typically receive this time of year. If the rain continues with this

pattern, the reservoirs will fill up and the drought will be over. However, he noted that the rain fell much too quickly for the City's conveyance systems to handle. He said that on Monday, within a four-hour period, a rain gage located at the Corporation Yard registered 2.3 inches of rain. This led to the first significant flooding that the City has had in over 3 years. He said that 75% of the properties in town are subject to 100 year flooding. He indicated that West Little Llagas Creek flooded from the intersection of Llagas Road and Llagas Creek, including Old Monterey and Monterey Road. Fischer Creek also flooded to the south end of town at Watsonville Road. He indicated that all of the problems experienced 3-4 years ago due to all El Nino recurred. He said that hillside areas also flooded, with the worst property damage occurring at Jackson School where an earth drainage ditch became over loaded. He did not believe that there was a lot of structural damage to the school but just a lot of clean up to be done. Also, in the Woodland areas, the hillsides above Llagas had a mud flow that plugged the catch basin. This resulted in a two day clean up of unclogging a catch basin. He said that City staff does a lot of flood preparation before the winter rain and when there are warnings of high storms. He said that staff makes sure that the catch basins are cleaned before storms arrive. He indicated that the City's conveyance systems can handle 2-inches of rain over a 24-hour period. However, anything above the two inches would create a problem. He said that staff is working on priorities to relieve flooding.

CITY ATTORNEY'S REPORT

City Attorney Leichter indicated that a litigation summary has been distributed and that there was nothing else to report.

PUBLIC COMMENT

Mayor/Chairperson Kennedy opened the floor to comments for items not appearing on this evening's agenda. No comments were offered.

City Council Action

CONSENT CALENDAR:

Mayor Kennedy and Council Member Sellers requested that item 3, and Mayor Pro Tempore Chang requested that item 11 be pulled from the Consent Calendar.

Action: *On a motion by Council Member Sellers and seconded by Council Member Carr, the City Council unanimously (5-0), **Approved** Consent Items 1, 2, 4-10 and 12, as follows:*

1. **NOVEMBER 2002 FINANCE AND INVESTMENT REPORT**

Action: **Accepted** and **Filed** Report.

2. **AB 1600 DEVELOPMENT IMPACT FEE REPORT FOR FISCAL YEAR 2001/2002**

Action: **Accepted** and **Filed** the AB 1600 Development Impact Fee Report for the 2001/2002 Fiscal Year.

4. **APPROVAL OF SUBDIVISION IMPROVEMENT AGREEMENT WITH SOUTH VALLEY DEVELOPERS, INC. - MONTEREY ROAD APN 764-10-004**
*Action: 1) **Approved** the Subdivision Improvement Agreement; and 2) **Authorized** the City Manager to Sign the Agreement on Behalf of the City with South Valley Developers, Inc., Monterey Road (APN 764-10-004).*
5. **AMEND PROFESSIONAL SERVICES AGREEMENT FOR DESIGN OF TENNANT AVENUE WIDENING PROJECT**
*Action: 1) **Approved** Additional Scope of Work for MH Engineering in the Amount of \$1,800; and 2) **Authorized** the City Manager to Execute an Amendment to the Existing Professional Services Agreement for Design Services for the Tennant Avenue Widening Project. The Total Amended Professional Services Agreement Shall Not Exceed \$44,210.*
1. **AWARD FOR SIDEWALK, CURB AND GUTTER REMOVAL AND REPLACEMENT 2002-2003 PROJECT**
*Action: **Awarded** Contract to Monterey Peninsula Engineering, Inc. for the Construction of the Sidewalk, Curb and Gutter Removal and Replacement 2002-2003 Project in the Amount of \$34,275.*
2. **COMMUNITY AND CULTURAL CENTER PROJECT AND COMMUNITY PLAYHOUSE NOVEMBER CONSTRUCTION PROGRESS REPORT**
*Action: **Information** only.*
3. **MILLER NETWORKS CONTRACT AMENDMENT**
*Action: **Authorized** the City Manager to Execute a Contract Amendment with Miller Networks.*
4. **SUBDIVISION APPLICATION SD 02-10: CENTRAL AVENUE-WARMINGTON**
*Action: **Took No Action**, Thereby Concurring with the Planning Commission's Decision Regarding Approval of the Subdivision Map.*
5. **AMENDMENT TO THE RESIDENTIAL DEVELOPMENT CONTROL SYSTEM EXEMPTION POLICY - Resolution No. 5629**
*Action: **Adopted** Resolution No. 5629, Approving Recommended Changes to the City Council Residential Development Control System Exemption Policy.*
12. **SPECIAL CITY COUNCIL MEETING MINUTES FOR DECEMBER 4, 2002**
*Action: **Approved** the Minutes as written.*
3. **GROUND LANDSCAPE MAINTENANCE SERVICES FOR THE COMMUNITY AND CULTURAL CENTER**

Mayor Kennedy inquired whether any other bids were received, noting that only one bid is identified by staff?

Director of Public Works Ashcraft indicated that only one bid was received. He stated that staff

conducted a mandatory pre bid conference with two contractors showing up for this meeting. However, when it came to submitting bids, staff received only one bid. He said that the other firm that attended the mandatory pre bid conference stated that if they had an additional week, they would have submitted a bid. He noted that firms were given three weeks notice to prepare their bids and attend the pre bid conference. He did not know why other bids were not submitted. It was staff's belief that the bid is reasonable and within the budget and recommended Council award of bid.

Council Member Tate noted that the staff report states that this is a February to June (4-5 month) project while the worksheet shows a year contract.

Director of Public Works Ashcraft clarified that staff is not requesting that the Council appropriate any funds but that Council approve a contract that can run up to 12 months. It is staff's belief that the project will start within two months. Therefore, when the project starts, the price is locked in for a year. He said that the contract is based on unit work prices conducted per week. If something happens with the contract or the contractor does not perform good service, the contractor can be discharged immediately and that he would be paid for the number of weeks performed. He clarified that the contract is for \$34,000 and for a one year period. He said that the City would only pay for the services provided.

Mayor Kennedy noted that Exhibit A lists the annual quantity of work items and that they are extended out, resulting in the total price and delineates the amount of work and maintenance frequency. Therefore, his question has been answered with respect to the contract.

Council Member Sellers stated that it was indicated to him that a drip system was not installed but that a spray system was installed for the front area of the Community and Cultural Center. The individual was questioning the efficiency of the spray system and why a drip system was not used. He requested that staff investigate why a spray system was utilized and recommended that the City utilize a more efficient way of irrigating, particularly in the exterior area by Dunne Avenue and Monterey Road.

Action: *On a motion by Council Member Tate and seconded by Council Member Sellers, the City Council unanimously (5-0) **Authorized** the City Manager to Execute a Contract with Flora Terra Landscape Maintenance for Ground Landscape Services for the Community and Cultural Center, Gavilan College, and Morgan Hill Playhouse in the Amount of \$37,543.62.*

11. IN LIEU CONTRIBUTION FOR OPEN SPACE TRANSFER DEVELOPMENT CREDITS (TDCs)

Mayor Pro Tempore Chang inquired how many TDCs have been sold and how many are anticipated to be sold in this manner?

Director of Community Development Bischoff responded that approximately 60 TDCs have been purchased since 1988. In terms of how many additional TDCs are anticipated to be sold, he said that any piece of property within the Morgan Hill Sphere of Influence in excess of 20% slope is eligible for transfer development credits. He said that there are certain property owners who have taken full

advantage of this program while there are others who do not seem to have much interest in it. He said that a large percentage of property owners outside the City limits have not expressed an interest in the program. He said that there were several hundred TDCs available to be sold if property owners were interested and involved in the program. It was his belief that property owners may have a fear that this program may tie up their property and may impact future subdivision or development of properties. He said that staff has sent letters to property owners on El Toro advising property owners of their ability to transfer development credits from their property to other parcels. He said that staff has tried to stay out of the private party transaction. Staff has made the names of the property owners available to Measure P applicants so that they can contact the property owners to determine their interest in selling their TDCs. He indicated that he has been advised by developers that they are having a difficult time finding individuals willing to sell TDCs. He said that in lieu TDC funds are currently being placed in an open space fund, noting that there is approximately \$100,000 in this fund. Staff anticipates that should the Council approve the amendment, the City would be able to accumulate several hundred thousand dollars over the next few years. He indicated that there has been discussion about using these funds to buy property on El Toro.

Council Member Carr noted that the staff report states that the Planning Commission recommended \$30,882 per TDC commitment. He inquired why this is less than what is listed in staff's fact sheet?

Mr. Bischoff responded that the staff report states that the Planning Commission is recommending that all projects be entitled to pay in lieu fees, whatever the fee happens to be. He noted that the staff report lists the fee to be \$30,800. He said that he would need to check with the Planning Manager to determine where the \$31,000 came from. He said that the \$30,800 figure may be the number from last year. Updating the number this year may result in the \$31,000 figure. He informed the Council that the City's ordinance specifies how the amount should be determined (e.g., based on the average sale price of a single family detached home in Morgan Hill). Based upon the average sales price from year to year, the TDC fees would change.

Council Member Tate stated that the TDC price set by the City makes no obligation whatsoever to a property owner to sell it for a particular price. He felt that property owners are offering TDCs at an inflated price. He said that the problem that developers are experiencing is that they cannot purchase TDCs from property owners for the rate that the City states that they should be because the property owner is not obligated to sell it for the City's calculated price.

Mr. Bischoff said that although individuals who own properties with slopes in excess of 20% are eligible for this program, there are only two property owners who have TDCs for sale and have certificates to transfer to an individual. One individual is not interested in selling and is keeping them for his own future projects. The other individual is asking \$40,000-\$45,000 per TDC. Developers felt that they were too high and more than what the market should be. In response to Mayor Pro Tempore Chang's question, he said that calculation of TDCs is a function of the slope of the land. He calculates this to equate to five acres per TDC.

Mayor Pro Tempore Chang inquired how much land could be purchased with in lieu fees?

Mr. Bischoff said that the City's program does not necessarily require the City to purchase TDCs.

What the program suggests is that an individual purchase the right to develop property. He said that the TDC can remain in the ownership of another person but the individuals may not be able to develop it. He said that the City could purchase what the market will bare. He did not believe that the City could buy five acres with \$30,000. The purchase price would be whatever a property owner thinks that their property is worth. He stated that he did not have an answer to Mayor Pro Tempore Chang's question.

Action: *On a motion by Council Member Sellers and seconded by Council Member Tate, the City Council unanimously (5-0) **Authorized**, by Minute Action, All Residential Development Control System (RDCS) Projects to Make Monetary Contributions In-Lieu of the Purchase of Transfer Development Credits (TDC).*

Redevelopment Agency Action

CONSENT CALENDAR:

Action: *On a motion by Agency Member Sellers and seconded by Agency Member Carr, the Agency Board unanimously (5-0), **Approved** Consent Item 13, as follows:*

13. NOVEMBER 2002 REDEVELOPMENT AGENCY FINANCE AND INVESTMENT REPORT

Action: ***Accepted** and **Filed** Report.*

City Council and Redevelopment Agency Action

CONSENT CALENDAR:

Mayor/Chairman Kennedy pulled item 14 from the Consent Calendar.

Action: *On a motion by Council/Agency Member Sellers and seconded by Council/Agency Member Carr, the City Council/Redevelopment Agency unanimously (5-0), **Approved** Consent Item 15 as follows:*

15. SPECIAL AND REGULAR CITY COUNCIL AND SPECIAL REDEVELOPMENT AGENCY MEETING MINUTES FOR DECEMBER 4, 2002

Action: ***Approved** the Minutes as written.*

14. FISCAL YEAR 2001-2002 ANNUAL FINANCIAL REPORTS

Mayor/Chairman Kennedy congratulated Finance Director Dilles and his staff for winning the Financial Accounting awards.

Action: *On a motion by Council/Agency Member Tate and seconded by Council/Agency Member Carr, the City Council/Redevelopment Agency unanimously (5-0) **Accepted** and **Filed** the Financial Reports for the Year Ended June 30, 2002: 1) Comprehensive Annual Financial Report for the City; and 2) Annual Financial*

Statements for the Redevelopment Agency.

City Council Action

PUBLIC HEARINGS:

16. DEVELOPMENT AGREEMENT AMENDMENT DAA 01-06: COCHRANE-COYOTE ESTATES - Ordinance No. 1598, New Series

Director of Community Development Bischoff presented the staff report. He noted that a letter from the applicant has been included. He stated that the applicant was available to attend the previous meeting but that he had a prior commitment that precludes his attendance this evening. The applicant states that should the Council have concerns about his item, that the item be continued to a meeting in January 2003.

Mayor Kennedy opened the public hearing. No comments being offered, the public hearing was closed.

Action: *On a motion by Council Member Tate and seconded by Council Member Sellers, the City Council unanimously (5-0), **Waived** the Reading in Full of DAA Ordinance No. 1598, New Series.*

Action: *On a motion by Council Member Tate and seconded by Council Member Sellers, the City Council **Introduced** Ordinance No. 1598, New Series, by title only, as follows:*
AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL APPROVING AN AMENDMENT TO ORDINANCE NO. 1523, NEW SERIES, TO AMEND THE DEVELOPMENT AGREEMENT TO INCORPORATE A SIX MONTH EXCEPTION TO LOSS OF BUILDING ALLOCATION FOR 5 BUILDING ALLOTMENTS FOR FY 2001-2002 AND A FIVE MONTH EXCEPTION TO LOSS OF BUILDING ALLOCATION FOR 11 BUILDING ALLOTMENTS FOR FY 2002-2003 FOR APPLICATION MP 00-22: COCHRANE - DIVIDEND (APNs 728-42-008, 017; AND 728-43-021.) by the following roll call vote: AYES: Carr, Chang, Kennedy, Sellers, Tate; NOES: None; ABSTAIN: None; ABSENT: None.

17. DEVELOPMENT AGREEMENT APPLICATION, DA 02-07: SHAFER-BAMDAD - Ordinance No. 1599, New Series

Mayor Kennedy recused himself from this item, noting that this item is located within 500 feet from his residence.

Director of Community Development Bischoff presented the staff report.

Mayor Pro Tempore Chang opened the public hearing. No comments being offered, the public hearing was closed.

Action: *On a motion by Council Member Tate and seconded by Council Member Sellers, the City Council, on a 4-0 vote with Mayor Kennedy absent, **Waived** the Reading in Full of Ordinance No. 1599, New Series.*

Action: *On a motion by Council Member Tate and seconded by Council Member Sellers, the City Council **Introduced** Ordinance No. 1599, New Series, by title only, as follows:
AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL APPROVING A DEVELOPMENT AGREEMENT FOR APPLICATION MP-01-07: SHAFER-BAMDAD (APN 728-10-005)/(DA-02-07: SHAFER-BAMDAD) by the following roll call vote: AYES: Carr, Chang, Sellers, Tate; NOES: None; ABSTAIN: None; ABSENT: Kennedy.*

Mayor Kennedy resumed his seat on the dias.

Mayor Pro Tempore Chang thanked Council Member Sellers and City staff for the week-long celebration of the grand opening of the Community and Cultural Center.

18. DEVELOPMENT AGREEMENT DA 02-10: EAST DUNNE AVENUE - FIRST COMMUNITY HOUSING - Ordinance No. 1600, New Series

Mayor Pro Tempore Chang recused herself from agenda item 18 as she resides within 500 feet from the project.

Director of Community Development Bischoff presented the staff report.

Mayor Kennedy opened the public hearing. No comments being offered, the public hearing was closed.

Council Member Sellers said that some of the items included in this project are fairly innovative, in particular, the energy conservation items. These are items that he would like to encourage in future projects. He commended the developer for undertaking energy conservation measures.

Action: *On a motion by Council Member Sellers and seconded by Council Member Carr, the City Council, on a 4-0 vote with Mayor Pro Tempore Chang absent, **Waived** the Reading in Full of Ordinance No. 1600, New Series.*

Action: *On a motion by Council Member Sellers and seconded by Council Member Tate, the City Council **Introduced** Ordinance No. 1600, New Series, by title only, as follows:
AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL APPROVING A DEVELOPMENT AGREEMENT, DA-02-10: EAST DUNNE-FIRST COMMUNITY HOUSING FOR APPLICATION MP 01-12: EAST DUNNE-FIRST COMMUNITY HOUSING (APN 817-11-069) by the following roll call vote: AYES: Carr, Kennedy, Sellers, Tate; NOES: None; ABSTAIN: None; ABSENT: Chang.*

Mayor Pro Tempore Chang resumed her seat on the dias.

19. **ZONING AMENDMENT AND DEVELOPMENT AGREEMENT APPLICATIONS**
ZAA 01-10/DA 02-08: CENTRAL AVENUE - WARMINGTON - Ordinance Nos. 1601
and 1602, New Series

Director of Community Development Bischoff presented the staff report.

Mayor Kennedy opened the public hearing. No comments being offered, the public hearing was closed.

Action: *On a motion by Council Member Tate and seconded by Council Member Sellers, the City Council unanimously (5-0), **Waived** the Reading in Full of Zoning Amendment Ordinance No. 1601, New Series.*

Action: *On a motion by Council Member Tate and seconded by Council Member Sellers, the City Council **Introduced** Ordinance No. 1601, New Series, by title only, as follows: AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL APPROVING A ZONING AMENDMENT TO AMEND A PRECISE DEVELOPMENT PLAN TO ALLOW FOR A 59 UNIT R-1 (7,000)/RPD SINGLE-FAMILY RESIDENTIAL PLANNED DEVELOPMENT LOCATED ON THE NORTH SIDE OF CENTRAL AVENUE - SOUTH OF MORGAN HILL BUSINESS PARK, BETWEEN SERENE DRIVE AND BUTTERFIELD BOULEVARD (APNS 726-28-001 & 002) by the following roll call vote: AYES: Carr, Chang, Kennedy, Sellers, Tate; NOES: None; ABSTAIN: None; ABSENT: None.*

Action: *On a motion by Council Member Tate and seconded by Council Member Sellers, the City Council unanimously (5-0), **Waived** the Reading in Full of Development Agreement Ordinance No. 1602, New Series.*

Action: *On a motion by Council Member Tate and seconded by Council Member Sellers, the City Council **Introduced** Ordinance No. 1602, New Series, by title only, as follows: AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL APPROVING A DEVELOPMENT AGREEMENT, DA 02-08 FOR MP 01-09: CENTRAL AVENUE-WARMINGTON (APNS 726-28-001 & 002) by the following roll call vote: AYES: Carr, Chang, Kennedy, Sellers, Tate; NOES: None; ABSTAIN: None; ABSENT: None.*

20. **URBAN SERVICE BOUNDARY ADJUSTMENT 01-07: DIANA-KUBO - Resolution**
No. 1530

Director of Community Development Bischoff presented the staff report.

Mayor Kennedy opened the public hearing. No comments being offered, the public hearing was closed.

Action: *On a motion by Council Member Sellers and seconded by Council Member Tate, the City Council unanimously (5-0), **Adopted** the Mitigated Negative Declaration.*

Action: *On a motion by Council Member Sellers and seconded by Council Member Carr, the City Council unanimously (5-0) **Adopted** Resolution No. 5630, Approving an Amendment to the Urban Service Area Boundary.*

21. APPLICATION ZA-02-17: ESTABLISHING ZONING REGULATIONS FOR PARKING LOT AND SIDEWALK SALES - Ordinance No. 1603, New Series

Director of Community Development Bischoff presented the staff report. He indicated that the Planning Commission voted unanimously to recommend that the City change its code to require a temporary sellers permit to ensure that the sales tax goes to the City of Morgan Hill. He noted that the changes that the Planning Commission is recommending this evening are: 1) a temporary sellers permit be obtained to ensure sales tax comes to Morgan Hill; 2) obtain business license and a cash bond; and 3) extend the number of days in which these types of events could occur. The frequency being recommended is that they be allowed seven days in any 90-day period of time.

Council Member Tate said that he does not know why the Planning Commission is recommending the reduction from 180 to 90 days.

Mr. Bischoff said that in speaking with staff, it was his understanding that the Planning Commission was swayed by information that suggests that a good number of individuals are attracted to these types of events. It was felt that the additional traffic would tend to have spin off benefits to other businesses in the community.

Mayor Kennedy opened the public hearing.

Sunday Minnich thanked staff for taking the Chamber of Commerce's comments into consideration with regards to parking lot and tent sales. She indicated that the Chamber of Commerce concurs with the staff report but requested that the 180-days be retained because she did not believe that anyone would want Morgan Hill to be a tent sale city. The Chamber of Commerce believes that 180 days would be sufficient for these types of events. As long as the City is going to reap the benefits from a business license and a sales permit, then the Chamber of Commerce would support the staff report recommendation.

No further comments being offered, the public hearing was closed.

Council Member Tate agreed that reducing the frequency should be considered and that they not become regular events. He also agreed that there are benefits if scheduled on a special type of a calendar.

Action: *On a motion by Council Member Tate and seconded by Council Member Sellers, the City Council unanimously (5-0), **Waived** the Reading in Full of Ordinance No. 1603, New Series.*

Action: *On a motion by Council Member Tate and seconded by Council Member Sellers, the City Council **Introduced** Ordinance No. 1603, New Series, by title only, as follows: **AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL AMENDING SECTION 18.54.160 OF THE MORGAN HILL MUNICIPAL CODE ESTABLISHING REGULATIONS FOR PARKING LOT AND SIDEWALK SALES, amending Section 1 (a) to retain the 180 days (deleting the 90-day recommendation) by the following roll call vote: AYES: Carr, Chang, Kennedy, Sellers, Tate; NOES: None; ABSTAIN: None; ABSENT: None.***

Redevelopment Agency Action

PUBLIC HEARINGS:

22. IMPLEMENTATION PLAN (2000 - 2004) MID-TERM REPORT

Director of Business Assistance and Housing Services Toy presented the staff report relating to the Implementation Plan 2000-04.

Council Member Sellers noted that staff is showing the very low and low moderate income housing at a ratio of 2-1. He felt that the need was acute in both areas. He said that the City has moved forward with a lot of very low income units that he felt were appropriate. He inquired whether staff felt that there was a bigger gap in the low moderate housing area or whether it felt that private construction of these units have taken care of staff's concerns?

Mr. Toy responded that as part of the City's housing strategy, staff would be going over how the City will be using the funds as it applies to moderate income households for ownership as well as very low. He said that in terms of very low, there are a lot of rental projects that are being targeted to this level based on the financing resources. On the other hand, staff is finding that if it moves toward moderate income for ownership, this would be a viable housing market to target.

Mayor Kennedy opened the public hearing. No comments being offered, the public hearing was closed.

Action: *On a motion by Agency Member Sellers and seconded by Agency Member Tate, the Agency Board unanimously (5-0), **Accepted** the City of Morgan Hill Redevelopment Agency Implementation Plan (2000-2004) Mid-Term Review of Accomplishments.*

OTHER BUSINESS:

23. REPLACEMENT HOUSING PLAN FOR ROYAL COURT HOUSING

Executive Director Tewes informed the Agency Board that item 23 and 27 are related. He recommended that either item 27 be considered at this time or item 23 be considered following item 27.

Action: *It was the consensus of the Council **to consider** item 23 following item 27.*

24. STATUS OF AGREEMENT WITH THE CHAMBER OF COMMERCE

Director of Business Assistance and Housing Services Toy presented the staff report.

Chairman Kennedy opened the floor to public comment.

Sunday Minnich addressed the nine page Chamber of Commerce status report included in the Council agenda packet. She highlighted some of the Chamber of Commerce's accomplishments. She said that the Chamber of Commerce restructured the Economic Development Committee to include 18 committee members representing various entities of the business community. She indicated that this committee was separated into two separate subcommittees: business attraction and business retention. Under business attraction, the Chamber is in the process of planning the second Morgan Hill site visit to be held in April or May 2003. The Chamber is working on restructuring its web site, including an economic development website. The program will list all available commercial, retail, industrial, agricultural properties available for lease or purchase. The program will be able to prepare monthly or weekly reports. It will identify the number of hits each property listing receives. She indicated that City staff can easily access the site and generate a report that lists all of the available property in Morgan Hill. The Chamber will maintain the web site and make sure that it is kept current. She stated that the Chamber is still receiving proposals for the job listing site. She indicated that the web site should be redeveloped and operable in January 2003 with a new home page and interactive links to the City's web site. The Chamber will be hosting a community brokers meeting in February 2003 to be held at the Community and Cultural Center. She attended a retail attraction workshop in Burbank and that she would be attending a workshop relating to retaining retail in February 2003. She also plans to attend an Economic Development Course at the Chamber Institute in January as well as the ICSC trade show in March with City staff, including an educational conference in April.

Ms. Minnich addressed business retention. She indicated that Chamber staff has met with three different companies in Morgan Hill who expressed concern with local business relationships with like businesses. Discussed was how the Chamber can assist these businesses. She indicated that as a result of these meetings, the Chamber would be starting a small business forum as well as the big business forum currently being conducted. The Chamber of Commerce developed a business retention survey. The Economic Development Committee has been studying the survey with the final survey to be approved tomorrow at the meeting. She indicated that the survey would be mailed in early January 2003. The Committee felt that 100% saturation was important for this survey.

Ms. Minnich informed the Redevelopment Agency that she currently sits on the Board of Directors for the Downtown Association. She chairs the promotions committee and that she was the lead in the design for a new downtown logo. She indicated that the Chamber took the lead in the committee for the Safe Trick or Treat Program and has mentored the Downtown Association to take this program over next year. The Chamber is also chairing the second annual Downtown Dine Around later this year. She stated that the Chamber is in the process of soliciting tourism committee members that would include representatives from the tourism industry and related businesses. This will be an 18-member committee and will include Downtown Association members, Silicon Valley Wine Growers Association, Media Arts, special group facilities, golf, brewery, winery, hotel, publications, Historical Society, shopping, restaurant, City staff, entertainment, attraction, RV parks,

and Parks and Recreation representatives. The Chamber is putting together a committee outline and requirements for committee members to get them involved in a working committee. She indicated that the first meeting will be held at the end of January. The Chamber also advertises cooperatively with the Gilroy Visitors Bureau and the 2002-2003 Touring California Central Coast Magazine. She has also spoken with Kristen Carr with the Gilroy Visitors Bureau who is also interested in holding a joint familiarization trip in the late spring for the Silicon Valley Concierges' Association. She indicated that she felt that the Chamber has made sufficient progress since approval of the contract and hopes that their contract and partnership would continue with the City.

No further comments were offered.

Chairman Kennedy stated that he was impressed with the progress being made by the Chamber.

Agency Member Sellers agreed that a lot of progress has been made by the Chamber. He said that it was encouraging and exciting to see that the Chamber has gotten a lot off the ground. He indicated that when the Redevelopment Agency instituted an agreement with the Downtown Association, it looked at a long term plan that includes reducing the amount of funding that the City of Morgan Hill provides with specific goals in mind. Although this is a different contract in some way, he felt that there were some parallels. He recommended that the Redevelopment Agency look at several of the significant projects being undertaken by the Chamber such as updating the web site, updating the trade booths, conducting a survey, etc. He noted these are one time items. He stated that he would like to see a longer term relationship with the Chamber. He felt that the goal of the contract is to bring in more businesses to Morgan Hill and to make sure that the existing businesses prosper. If these goals are achieved, the Chamber membership should increase with the added businesses in the community. This should provide the opportunity for the Redevelopment Agency and the Chamber to continue working together but at a reduced capacity. He stated that he would like to figure out a way to look at this in the long term to state that the City's goal is to reduce the contract amount years out.

Agency Member Tate agreed with Agency Member Sellers' goal but felt that this was an evolving relationship. He felt that needs change on both sides each year and felt that there would be things that would be replaced from year to year.

Action: *On a motion by Agency Member Tate and seconded by Agency Member Sellers, the Agency Board unanimously (5-0), **Received** Report From the Chamber of Commerce and **Determined** Current Agreement Should Remain in Effect.*

City Council Action

OTHER BUSINESS

25. OFFICE SPACE FOR MAYOR AND CITY COUNCIL

Assistant to the City Manager Dile presented the staff report and addressed the two alternatives for Council consideration. Option 1 would provide an office for the Mayor in the office previously occupied by the Recreation Supervisor. Option 2 would still provide a Mayor's office and would

also provide shared office/storage space for Council members in the office previously occupied by the Recreation and Community Services Manager. She indicated that the Council may have other suggestions on how to reuse the space or may wish to take no action at this time. She stated that in both options being recommended, the two cubicle offices formerly occupied by recreation staff would remain as staff spaces and would be made available for contract or temporary staff or for long term additional staff that may take place at city hall. In addition, the El Toro conference room would remain in use as a conference room. Implementation of either options being suggested this evening would not preclude the development of dedicated private office space for council members or staff at a future date. Should either options be approved by the Council, they could be implemented by mid January and that the cost would be \$10,000 or less. She indicated that approximately \$89,000 was carried over from last year's budget to this year's budget for this project. Any funds from this project that are not used could be returned to the General Fund reserves or allocated otherwise desired by the Council.

Council Member Sellers inquired what would happen to the office space formerly used by the Recreation and Community Services Manager?

Ms. Dile responded that there is not an immediate need for this office space for an on going staff member. However, when a senior planner is hired in the Planning division, the contract planner will need to be moved over to one of the cubicles.

Council Member Tate said that he had the opportunity to work out of the Recreation and Community Services Manager's former office space. He felt that the office was conducive for his use as it afforded him a chair, desk and phone. He indicated that he did not need a computer. He stated that he would like the opportunity to continue to use the office space as equipped.

Council Member Sellers said that it would be helpful to have office space available. He said that with the infrequency that he and perhaps other Council Members would have in terms of office space, the former Recreation and Community Services Manager's space could be shared by the four council members, provided that some storage be provided. He said that in looking at the proposal, the bulk of the cost comes from the computer and office furniture. He felt that the computers were a significant expenditure. While a computer may be appropriate for the Mayor's office, he did not know whether a computer was needed for the other office. He supported shared office space for the Council members without any extra expenditures on the Council side as his recommendation. He stated his support of Option 1, leaving the former Recreation and Community Services Manager's office space available for Council members use.

Council member Tate indicated that chairs would be needed for the shared Council Members office space.

Council Member Carr stated that he would support Option 1 with the provision of two chairs and essential office items from Option 2.

Action: *On a motion by Council Member Sellers and seconded by Council Member Tate, the City Council unanimously (5-0), **Supported** Option 1, with the direction to provide essential office items for the former Recreation and Community Services Manager's*

office space. The unencumbered funds to return to the General Fund balance in order to help meet the 4% budget reduction.

Mayor Pro Tempore Chang excused herself from the dias.

26. ART IN PUBLIC PLACES

Business Assistance and Housing Services Manager Maskell presented the staff report.

Council Member Tate inquired whether the purpose this evening's discussion was to present the Council with an overview of art in public places and whether staff was requesting feedback this evening? He inquired whether staff was proposing a workshop at a future date with a facilitator walking the Council through the questions raised by staff?

Ms. Maskell requested Council comments or thoughts that would help guide staff toward the workshop and to help make the workshop productive, assuming the Council wants to pursue art in public places.

Mayor Kennedy felt that staff did an excellent job in preparing the presentation. He felt that the questions that staff asked were helpful. However, he did not have responses to all the questions being asked.

Mayor Pro Tempore Chang took her seat at the dias.

Mayor Kennedy opened the floor to public comment.

Chuck Dillmann indicated that he participated in the meeting held by staff. He said that at the meeting, there were as many ideas and solutions presented as there were individuals in attendance. He felt that this would be a program that would go on forever, once in place. Should the Council see merit in pursuing public art, he suggested that two things occur: 1) a task force be established to further develop the issue as this would need to be a multi year program that will last forever. 2) Every effort should be made to minimize the City's direct involvement in this. He suggested that this be turned over to a civic group that would have the dual responsibility of implementing and funding with oversight by the City to assume consistency and quality. He felt that there would be several issues that would need to be dealt within the implementation that divides the line between architecture, landscaping and art.

Wes Rolley indicated that he attended the meeting conducted by City staff. He felt that the City needs a policy relating to the use of City space for the exhibition of art that is not necessarily permanently acquired by the City. He said that individuals have approached him about plans that could potentially make use of exhibition space in the Community and Cultural Center for temporary exhibits within the next calendar year. He felt that the City Attorney has done good work in clarifying the legal ramification of responsibility and insurance. He felt that the City needs to establish a policy for a set of practices that can make the use of the Community and Cultural Center for temporary art exhibitions.

Theresa Wayne, Gallery Morgan Hill, thanked the Council for including local artists in the Community and Cultural Center grand opening. It is hoped that the program that the City is considering would encourage other local artist to participate as there are a great number of artists in the area. It was her belief that these artists would appreciate an opportunity to be part of this program.

No further comments were offered.

Council Member Sellers thanked the individuals for commenting this evening. He thanked the art community who stepped up to make sure that there was art in the Community and Cultural Center. He said that Gavilan College held its ribbon cutting ceremony last Tuesday. He noted that the College space felt different from the main section of the Community and Cultural Center. He felt that one of the reasons could be attributed to the fact that the Community and Cultural Center had art displayed in the main building and the fact that Gavilan College did not have art displayed in their portion of the facility. He stated that this was a reminder of the importance of art in public spaces and spaces where individuals gather in general. He said that there was merit in considering an art commission, committee, or board organizational structure. He said that if money and resources were not an issue, he would support an art commission. However, he would like staff to return to the Council, identifying the appropriate body such as a subcommittee of the Parks and Recreation Commission or any other feasible option. He felt that a task force, as suggested by Mr. Dillmann, may be a step in helping this effort along. He would like to consider a task force but wanted to know how much time would be required of staff, including resources needed.

Council Member Sellers said that there was discussion in the report about having development projects provide art as part of projects. He noted that one of the thoughts was that this be required for larger projects. He requested that staff provide the number of projects being discussed and at what level. He stated that he was inclined to consider something for larger projects but that he did not want to be too inclusive/exclusive. He expressed concern that a parameter would be set that no one would meet or that would be too onerous for most projects. He recommended that the City consider, as part of the public art policy, not only direct contribution or a percentage of development of projects but also opportunities for public art. He said that there was some space conducive for art and some spaces created barriers and problems for displaying art at the Community and Cultural Center. He requested that consideration be given to art space in the design of public facilities. He felt that parameters are needed for donated art to determine where they would be displayed and whether the City is obligated to display the art. He expressed concern with liability. He concurred that the City should support, encourage and provide some funding, and then step away for the betterment of public art and the community. He wanted to make sure that before the workshop is held that the City does a good job in notifying the entire art community. He did not want to have a situation where artists did not have a chance to provide input.

Council Member Tate felt that the City could establish requirements for public art. However, everything that he would like to see in public art should be encouraged and a voluntary community involvement. He stated that he would like to know the constraints on the projects that are being discussed. He would like to see a framework provided at the Community and Cultural Center without the specific pieces of public art being provided or funded by the City. He felt that a great shell could be developed that would encourage community volunteers to fill the public art void

somehow. He noted that the Community Foundation has been established who is raising funds or looking at ways to make this happen. Issues to be addressed are the standards and the selection process. He said that he knows that there are a lot of communities that can provide the City with a lot of input about developing guidelines. He wanted to see public art as a community-owned project and not driven by the Council or one particular person driving the guidelines. He would like to receive community input and shape what the community wants after applying the standards to public art.

Council Member Carr concurred with Council Member Sellers and Tate that the whole idea of finding a way for art to be displayed in current public settings and the issue of inclusion of some type of art within new development can be two separate items. He felt that the Council can move quickly on the idea of how art can be displayed within existing facilities such as the Community and Cultural Center as was done successfully with the grand opening.

Mayor Kennedy noted that staff alluded to an ad hoc committee that would work with staff. He inquired as to the make up of the ad hoc committee?

Ms. Maskell responded that staff would recommend an ad hoc committee consisting of two parks and recreation commissioners and two members from the library commission.

Mayor Kennedy agreed that some sort of a body is needed, a subset of the Morgan Hill Community Foundation, an Arts Council or some group of this nature. He felt that one advantage of falling under the umbrella of the Community Foundation is that it would provide the separation from City government or interference, including judgements of what is good and bad art. It was his belief that for City public projects, a certain percentage should be earmarked for public art (e.g., 1% as a starting point). With regards to private development, he said that the City could encourage the inclusion of public art. This could be done through planning staff, Architectural Review Board, Measure P incentives, or other forms of competitions, contests, art displays such as was done at the grand opening of the Community and Cultural Center. He said that the grand opening provided a form of venue for art competition or art shows. He felt that this should be encouraged for the private sector versus adding additional costs to a project. After having spent recent time in Italy and seeing art work, art sculptures, paintings, etc., you cannot help but be impressed that there is a need for long-lasting permanent art in the community. He felt that the City needs to include quality art in the community. He also felt that the City could follow the models of our new sister city. He said that the City has received some gifts from San Casciano and that the City needs a place to display momentos, etc. He supported a workshop, including the suggestion of having discussion with a steering committee or an ad hoc committee to provide a greater focus so that tough decisions can be made at the workshop.

Action: *On a motion by Council Member Sellers and seconded by Mayor Pro Tempore Chang, the City Council unanimously (5-0), **Directed** Staff to Set Up a Workshop, Inviting Interested Parties to Further Discuss Issues Relating to the Development of an Art in Public Places Policy, taking into consideration the ideas raised this evening.*

City Council and Redevelopment Agency Action

OTHER BUSINESS:

27. COMPREHENSIVE HOUSING STRATEGY

Director of Business Assistance and Housing Services Toy presented the staff report.

Libby Seifel, Seifel Consulting, Inc., commended the Council for taking a leadership position in providing affordable housing in the community. She informed the Council that the Comprehensive Housing Strategy is work in progress. She walked the Council through the process, key findings, and strategy recommendations, including a recommended housing strategy (e.g., target and focus the City's resources and leverage its funding; emphasis and target housing programs into the downtown area in a sensitive and logical way). She recommended concentration of the top six programs. She indicated that the City has \$20.2 million in potential funding, noting that all but \$1 million are Agency funds. She offered the following recommendations: 1) an allocation of distribution that focuses on affordable new ownership housing, special needs housing, affordable new rental housing, rehabilitation, down payment assistance, and downtown transit oriented development. 2) The Council/Agency consider higher density housing in order to leverage more dollars in creating more units (e.g., townhomes). 3) Modifications to the City's Residential Development Control System, particularly, strengthening incentives for affordable housing development in the downtown area. 4) The Council consider amending the Redevelopment Plan in order to provide more money for housing. She noted that the Council will be adopting a Downtown Plan to formalize the Council's policy about giving preference and focusing housing activities in the downtown. She felt that it was important for a community to look at its development process, from time to time, in order to identify/eliminate hindrances and to provide incentives that would enhance development of affordable housing. She indicated that she did not recommend a greater percentage of moderate income housing as part of the housing strategy because it is felt that some of the needs for moderate income households can be met by the private market, both in terms of rental housing and home ownership opportunities (existing housing and mobile home sites). She noted that these needs cannot be met for very low income households.

Council/Agency Member Carr said that the Council/Agency has to look at the priorities in a realistic view point of what can be done (being reactive versus proactive).

Council/Agency Member Tate stated that he was a little disappointed that the self help was not listed as a higher priority.

Mr. Seifel informed the Council/Agency that Habitat for Humanity contacted her to request her assistance because they are in a situation where they cannot produce enough housing to meet their commitment. She indicated that they are a volunteer organization and that they can only complete a limited number of units per year. She stated that the Council is reliant on the group that can facilitate a self help program. In addition, the funding that has been allocated for this program is a small amount. However, the Council/Agency could potentially increase the amount in order to provide a greater opportunity for these type of units. The question will be one of capacity in terms of how many can actually be built. She felt that there was enough room to build 2 units per year for six years. She did not believe that it was realistic to do a lot more than this given the capacity of a local organization to put the program together and get the homes built. She felt that South County

Housing may be able to help build self help homes.

Mayor/Chairman Kennedy opened the floor to public comment.

Chuck Dillmann stated that he serves on the site acquisition committee for Habitat for Humanity for Santa Clara County. He said that the board for Habitat for Humanity has set a goal of 10 self help units per in the County. The site acquisition committee has been working locally with Garrett Toy and Bill Newkirk for a project in the area that involves acquiring land from the County which the City would prepare and turn over to Habitat for Humanity. He said that a detailed site plan would be needed but that it was his belief that the site would accommodate 6-8 homes. In south county, there is a group organizing and that they are being integrated into Habitat for Humanity. This group consists of 30-60 individuals. The concept being contemplated is to have them begin to prepare for such a project. He said that there are two existing homes that are involved that would be torn down. There would be immediate authorization to build two homes on the site without impacting Measure P. He said that Habitat for Humanity is working and is in better shape to proceed with a project in Morgan Hill versus other organizations. He felt that it would be better to integrate a mixed use commercial/residential for the Royal Apartment, providing low income housing. He said that mobile homes are not technically considered low income units because they do not have requirements placed upon them. However, they are low income housing. He stated that Habitat for Humanity is doing everything that it can to promote them.

No further comments were offered.

Council/Agency Member Sellers said that Morgan Hill has been the youngest city in the county for a while. This is reflected by the fact that there is a high number of single family detached units. He felt that there were other factors that would preclude seniors from moving: inappropriate smaller senior units and seniors are happy to remain in their homes. He inquired if there were other factors in place that would provide additional senior units in town and encourage seniors to move into them? He also inquired as to the degree the City is providing housing units for its senior and to what degree are senior housing units being occupied by individuals who for other reasons would move into the community? He expressed concern with this fact because the City has limited funds and felt that the City needs to focus on the needs of the community. He requested that further consideration be given to senior housing.

Ms. Seifel indicated that the community has a large number of seniors who own their own homes. She stated that seniors who own their own homes may face some cost burden in the sense that they may have some outstanding obligations that would make it a challenge for them to afford to remain in their home. Depending on where your children are and where your family is, it may be more cost effective to sell one's home in Morgan Hill; taking the money and moving to the central valley or a retirement area that is less expensive. These individuals take their equity and use it for their retirement. The focus was on rental housing as there is a need for senior rental housing that would be assisted. She also felt that there is a need in this community for private senior housing that could potentially provide a resource for individuals who want to move into a smaller, one level patio home that might compete with the central valley option. She said that the study did not focus on private senior housing because there are some developers that would be able to take on senior housing projects. She said that the Council may want to think in terms of granting extra points in the City's

allocation system for senior housing. She reiterated that the specific focus is toward rental housing for seniors who are very low or low income.

Council/Agency Member Sellers noted that it was indicated that senior housing could be located in the downtown area. He inquired whether this was attributed to land cost or availability of resources?

Ms. Seifel noted that the city has a limited amount of resources that it can use. She felt that the Redevelopment Agency needs to think about what it wants to do and what will be impactful in terms of the use of the \$20+ million Redevelopment Agency funds. She felt that the downtown would be a great opportunity for seniors because it is important for them to be near mass transit. There are lots of shopping opportunities and amenities in the downtown area. She felt that there are sites that could be assembled that would be comfortable for seniors. Also, there were a lot of locational advantages to having a senior development in the downtown. She noted that the Tanner study states that the City needs to focus and not put all its energy in the downtown because it can be stimulated by private sector investors. One of the key ways of accomplishing this is by using the City's housing funds to help stimulate this development and to exempt senior housing development from the Measure P allocation from within a certain area, acknowledging that this infill development is different. Also, senior housing does not impact the city in the same manner as other housing types.

Council/Agency Member Sellers inquired if there were recommendations regarding increasing densities?

Ms. Seifel said that the Downtown Study states that the City could easily build up to 30 units per acre with wood frame construction with a cost-effective way of securing parking. She said that there are creative designs to achieve 50 dwelling units per acre and would result in structural parking and steel frame construction. She stated that the Cannon Group is recommending a modest incremental density increase, not initially going with a steel frame construction. They are recommending that the City stick with wood frame construction. This would result in townhome construction at 30 units per acre.

Mayor/Chairman Kennedy recommended that this issue be referred to the Planning Commission as there are a lot of issues that would involve them.

City Manager/Executive Director Tewes indicated that it is staff's recommendation that the document is circulated widely, including groups such as the planning commission and various task forces.

Action: *On a motion by Council/Agency Member Carr and seconded by Council/Agency Member Sellers, the City Council/Agency Board unanimously (5-0): 1) **Received** Comprehensive Housing Strategy Report; 2) **Provided** General Policy Direction as Stated Above; 3) **Directed** Staff to Distribute Report to Interested Parties for Comments; and 4) **Directed** Staff to Schedule Workshop for Further Discussion.*

Royal Apartment

Council/Agency Member Tate inquired why the commercial portion is being recommended to be

sold off? He stated that 12 units per acre is being proposed, noting that the Council/Agency discussed increased density in the downtown area. He considered this area as a part of the downtown. Therefore, he would consider twice the recommended density.

Mr. Toy stated that South County Housing would support a higher density development. He indicated that South County Housing is requesting Council/Agency authorization to acquire the property.

Mayor/Chairman Kennedy recommended that the density be consistent with the existing neighborhood. He felt that higher densities near the downtown core would be appropriate. He also felt that the appropriate density would come out as part of future discussions.

Council/Agency Member Tate indicated that the Downtown Task Force looked at opportunity areas for expanding the density north and south of the downtown core.

Council/Agency Member Carr said that at last night's meeting, the Measure P Update Task Force spent the entire time discussing the definition of the core under Measure P. It was indicated that this site would be within the core area. He stated that this is a much reduced core than what is being used today in Measure P, but that this site would still be within the core.

Mayor Pro Tempore/Vice-chairperson Chang felt that if a higher density is being proposed for the downtown that it would necessitate a General Plan amendment.

Council/Agency Member Sellers did not believe that a higher density would be unprecedented in the area. He noted that half a block away from the site, on Wright Avenue, there is a large apartment complex. There is another apartment complex adjacent to the Royal Apartments as well as across the street. He felt that a precedent for higher density exists in the neighborhood. He said that South County Housing has performed an incredible job in terms of developing affordable housing for the City. He inquired as to the process whereby South County Housing was selected as the developer the City would work with on this project?

Mr. Toy said that the process was one based on the City's experience in working with South County Housing on the Via Ciolino project. Staff felt that this would be a great project for them to focus on. He said that in the past, staff approached other non profits about their interest. Knowing that South County Housing was doing a great job, other non profits did not want to infringe in the South County area.

Council/Agency Member Sellers said that it would be an issue of the overall housing strategy to determine why the City is limited in its option, even though South County Housing is a great option. He felt that there should be discussion at the workshop if there are other reasons other entities are not interested in assisting the City with the development of affordable housing.

Mayor/Chairman Kennedy inquired whether the Council/Agency would be more comfortable deferring action on item 27, recommendation 5, until after its discussion/action on item 23?

Mr. Toy clarified that the action before the Council is to provide South County Housing the

assurance that the City wants to move forward with a project before they put hard money down into the project and spend more money in pre development costs. The action does not commit the City to this particular concept, density, or the site layout.

Council/Agency Member Tate agreed to proceed with the acquisition of the property but not with the number of units being proposed.

Mr. Toy clarified that staff is requesting that the Council/Agency provide South County Housing some assurance that the City is proceeding with this project. Any agreements with South County Housing for funding, actual costs, and agreements for this project would need to come back to the Council/Agency.

Mayor/Chairman Kennedy stated that he would concur that South County Housing should move forward with the acquisition of the property but not necessarily with the number of units being stated.

Council/Agency Member Carr stated that for him, the number of units identified is a minimum. He stated that he would also be interested in addressing the issue that Mr. Dillmann raised about the property on Monterey Road and the possibility of a mixed use and how this would work with the financial dynamics of the entire project in future discussions.

Council/Agency Member Sellers stated that he would be abstaining from the action to be taken under action item 5 as he would like to confirm that he does not reside within 500 feet of this site.

Action: *On a motion by Council/Agency Tate and seconded by Mayor Pro Tempore/Vice-chairperson Chang, the City Council, on a 4-0-1 vote with Council/Agency Member Sellers abstaining, **Approved** Preliminary Concept approach for Royal Apartments and the housing replacement concept for the Royal Apartments. The Number of Units to be determined at a future date.*

23. REPLACEMENT HOUSING PLAN FOR ROYAL COURT HOUSING

Council/Agency Member Sellers stated that he would be abstaining from the action to be taken for this item as he would like to confirm that he does not reside within 500 feet of this site.

Business Assistance and Housing Services Toy presented the staff report.

Chairman Kennedy inquired how the replacement housing plan for the Royal Court housing project would relate to the adjacent properties, in terms of density and adjacent development uses?

Jan Lindinthal, South County Housing, indicated that townhomes are located along the other side of Del Monte Avenue, similar in scale to what is being presented. She said that both parcels to the left of this site are under utilized, noting that there is commercial development and the upper two-thirds area located toward the rear is vacant. A pottery and an automotive type use are located within the vicinity, including a gasoline station. Along Wright Avenue, there are a number of apartments and a fourplex as well as a newer condominium development. In terms of density of the

apartment component, she felt that the density being proposed would be consistent with what exists nearby. The density being proposed is consistent with what the City has approved with other projects in the past. It is also proposed to design a project that would be consistent with the neighborhood in terms of a townhome component. What is being assumed with this development are two and three story buildings. She stated that there would be potential opportunities to increase the density if three story buildings are built.

Chairman Kennedy stated that he would like to see how the design would fit in with the adjacent properties through elevations.

Action: *On a motion by Agency Member Carr and seconded by Vice-chairperson Chang, the Agency Board, on a 4-0-1 vote with Agency Member Sellers abstaining, **Adopted** the Replacement Housing Plan for the Royal Court Housing Project.*

**28. ORAL REPORT ON BUDGET SCHEDULE AND SCOPE PRESENTED BY
AQUATICS SUB-COMMITTEE MEMBERS MAYOR KENNEDY AND COUNCIL
MEMBER CARR**

City Manager/Executive Director Tewes noted that Mayor/Chairman Kennedy and Council/Agency Member Carr were appointed by the Council/Agency to serve on the Aquatics subcommittee, overseeing the design for the Aquatics complex. He said that staff wanted to share with the full Council information that it has been sharing with the subcommittee. At the conclusion of staff's presentation, the subcommittee will have a recommendation about the budget, schedule and scope of the project. He said that the City is underway with the design of the project and that it is hopeful that by the end of January, staff would return to the Council with the schematics for the project. He indicated that staff wanted to undertake a preliminary cost estimate, even at this early stage to have a reality check against the budget. Staff will be suggesting that there needs to be a revision to the budget attributed to 4 fundamental reasons: 1) the Budget was established on the basis of the Beal Master Plan. Staff has been working with the users group and the subcommittee in identifying what is truly needed as part of phase 1. It was realized that some of the things that the Beals Group suggested that could be done in future phases should be done up-front (e.g., installation of curb and gutter around the site and landscaping). 2) The Beal Group prepared a master plan and not a construction estimate. Their master plan was based on 2002-dollars. Staff is trying to schedule out the cost for the actual construction schedule given by the Council/Agency with the hope that the facility would be opened by Memorial Day 2004. 3) Unknown to the Beals Group, at the time, was the Council's desire to invest significantly in energy efficient measures (e.g., solar heating). 4) In light of staff's experiences with other public projects and the fact that the City is in the early stage of the design, staff believes that it would be appropriate to establish a higher level of contingency. He indicated that Recreation and Community Services Manager Spier and Senior Project Manager Dumas would be presenting recommended changes to the scope of the project. More specifically, to be addressed is how the budget compares with the current estimate, describing the sources of funding for any adjustments that the subcommittee may recommend and to identify the need for a CIP for the public improvements as suggested earlier.

Recreation and Community Services Manager Spier presented Phase I as recommended by the Aquatics Committee. She stated that staff would return to the Council/Agency on January 22 to

discuss the Sports Management Group cost recovery component to ensure that the aquatics center is operating efficiently. She said that in order to stay on schedule, staff needs budget direction because staff is showing a difference in budget because items were needed to make the entire project come together.

Senior Planning Manager Dumas addressed the four exhibits distributed this evening. Exhibit 1 provides the Council/Agency with a description of phase 1 of the project; Exhibit 2 is a budget comparison that explains the spending for the project at the level of the scope; Exhibit 3 describes the offsite work; and Exhibit 4 addresses where the additional funding would come from.

Mayor/Chairman Kennedy stated that it was his belief that the Council approved a higher contingency in the current budget than the \$300,000.

Mr. Dumas stated that the initial contingency was \$300,000 and that it was based on a smaller design construction cost. He said that the initial design development contingency increased and that staff also added a 5% change order contingency.

Ms. Spier indicated that the additional \$2.7 million funding being requested can come from funding earmarked for the development of the adjacent sports field in order to move the aquatics complex forward. She indicated that there are no other funding sources designated for either of these two projects at this time.

City Manager/Executive Director Tewes indicated that the Beal's master plan was not helpful in identifying the different phases. He said that in some instances, the elements in each phase were small. In order to have a successful aquatics complex, it is felt that several components need to be combined.

Mayor/Chairman Kennedy indicated that he and Council/Agency Member Carr met with the architect this afternoon and discussed some of the issues.

Council/Agency Member Carr said that a year ago, the Council/Agency looked at all Redevelopment Agency projects and identified the dollars that would be earmarked for each project. It was an exercise worth doing. He said that one of the reasons he wanted to go through the exercise was to look at the other projects and identify where the funding will come from. The Subcommittee took a look at what the added costs are and took a look at where the funds can come from, with the assistance of staff. He stated that the items that add cost to the aquatics project are not new items but items that were talked about in other phases. The subcommittee looked at different ways of scaling back the project in order to save dollars but that it did not make sense to eliminate some of the elements. The committee felt that dollars should be added to the project and complete the first phase correctly or that the City hold off on doing the project because constructing half of the project would not work. He indicated that the subcommittee is recommending approval of an increased budget. It is felt that the dollars could come from the dollars allocated for the temporary improvements for the outdoor sports complex. These were dollars that were left over that were felt could be used for the sports fields. The \$2.7 million would not get the city more than what it has today but would improve the soccer field setting that exists today. It was the subcommittee's belief that this was the appropriate place to draw some of the dollars from in order to proceed with the

aquatics complex. The subcommittee also believes that it is important that the Agency agrees that it needs to go back and conduct a full re evaluation of RDA funds in the current allocation. The Agency needs to review all of the other projects to determine their status and to determine whether some of the Agency's priorities have changed, based upon new estimates that are being seen with the various projects. The Agency may find that there may be other changes needed in other projects, and that the Agency may find that its dollars are running out quick. He reiterated that the subcommittee's recommendation is that the Agency approve the budget increase, allocate the \$2.7 million from the current allocations for the outdoor sports complex, and set a time early next year to reevaluate all the current allocations in the RDA funds and the RDA projects.

Mayor/Chairman Kennedy stated that a fair amount of the increase is associated with several things. It is being recommended that the contingency funds be increased in order to make sure that there is a sufficient amount of contingency to avoid returning to the Agency for additional funding in the future. The sun/wind screen was a new feature added to the project. \$280,000 has been earmarked for the entry plaza which serves to connect the aquatics center to the rest of the complex. He said that it would make sense to connect the sports complex with the aquatics complex. In addition, there is funding for solar heating (an additional \$177,000). He said that the City would not have a good cost number until the working drawings are completed. He indicated that he gave thought to reducing the contingency but that he was talked out of this because at this stage of the estimated design process, the City does not have enough detail to perform an accurate estimate. The City would not have a good cost estimate until it is ready to go out to bid.

Council/Agency Member Tate stated that he understood the numbers and the reason why this came about. He also understood the subcommittee's recommendations, in part. He said that the Agency/Council would like to see all of the visioning projects come to fruition. He agreed that the Council/Agency needs to go back and re look at the allocations conducted in January 2002 but that he did not understand why this cannot be done before allocating additional funds to the aquatics center. He said that he looks at the number of people the City is trying to serve with recreational facilities and felt that the numbers that play volleyball, football, soccer, baseball, and/or softball far exceed the number that swim. Now, the subcommittee is suggesting that the City not serve this portion of the community. He said that he could not support the subcommittee's recommendation. He stated that he would like to move forward with the aquatics center. However, he recommended that the Council/Agency go back and look at the overall allocation. He recommended that decisions be made logically because what he sees taking place is that the project that is at the front of the line will get the allocation. It will be the project at the back of the line that would lose the allocation. He did not believe that the City is sufficiently funded for an economic development strategy. He felt that the Council/Agency has to undertake the same process to allocate funding for economic development. The Council/Agency can set this against the visioning projects to see if they are properly allocated. He felt that the sequence is wrong in terms of doing the re allocation. He noted that it was stated that the aquatics center needed both the recreational and competition pools. However, it is the recreational pool that is funding the competition pool. Therefore, he did not understand the logic of not proceeding with the recreational pool and that construction of the competition pool occur at a later date.

Council/Agency Member Sellers noted that the sports complex has \$2.7 million allocated and that the aquatics complex needs an additional \$2.7 million. He was not sure if this was a coincidence

or whether one was driving the other as far as the development of the project.

City Manager/Executive Director Tewes said that the needed funding did not start by looking at what is available in another pot. He noted that Senior Project Manager Dumas was hired to bring the project under budget, on time, and meeting the program needs identified by the Council/Agency as the scope. Staff needs to know this evening whether the Agency would be supporting allocating additional funds to keep the project on schedule. Otherwise, the City would need to request the architect to slow down and re think other options. This would result in staff not being able to deliver the project on Memorial Day, 2004.

Council/Agency Member Sellers noted that fields exist and would continue to be used.

Ms. Spier indicated that the City still has an on going agreement with CYSA to use the existing soccer fields. Without any funding for improvements, the fields would continue to be used as soccer fields by the community.

Mayor/Chairman Kennedy felt that the competition pool is the primary need in the swimming community because the local swim teams and the high school swim team need a 50-meter pool. Early on, it was felt that the recreational pool would attract from a regional area and would provide off setting revenues to help support the 50-meter competition pool. It was his understanding that the competition pool was the driving force of the aquatics complex.

Council/Agency Member Tate noted that the softball, volleyball, nor soccer groups were in attendance to address their needs.

Council/Agency Member Carr said that the subcommittee is only stating that there needs to be an additional allocation to this project. The subcommittee is recommending that the Council/Agency go back and look at all of the allocations early next year. If the Agency identifies the outdoor sports complex as a priority, the Agency would need to adjust its funding allocations. He stated that he would like to find additional funds that would go toward economic development and housing. In order to be able to stay on schedule with phase 1 of the aquatics complex, the Agency needs to be able to allocate some additional dollars. The subcommittee has found a source of funding, that being the funding earmarked for the outdoor sports complex. He did not believe that the subcommittee is stating that it is valuing swimmers over any other sports group. He did not believe that the \$2.7 million ear marked for the outdoor complex would have provided sports groups with facilities. He felt that the Agency needs to review allocation of Redevelopment Agency dollars early next year. He was not sure that the Agency would be able to bring all of the visioning projects that was agreed upon last year to fruition. He felt that the Council needs to make hard decisions.

Council/Agency Member Tate felt that the \$2.7 million could be used to provide outdoor fields for sports groups. He agreed that the Council/Agency needs to review funding for the remaining visioning projects prior to making a decision on this issue.

Mayor Pro Tempore/Vice-chairperson Chang noted that several projects are yet to be constructed. She stated that she could not support taking the \$2.7 million away from the outdoor sports complex.

This is not stating that she is not supporting the aquatics complex but that she cannot approve the allocation this evening as she would like to review the overall picture. She said that an alternative is not to construct the indoor recreation center as planned because the City does not have the money to proceed with the project.

Mayor/Chairman Kennedy said that the subcommittee discussed some options. One option would be to proceed with the design. When it goes out to bid, the City can break up components (e.g., competition pool, recreation pool or the connecting feature, wind screen etc.). This would allow the design to continue and still provide the Agency with some flexibility. At that time, the Agency would know actual costs. He felt that this would be a way to address Council/Agency Members Chang and Tate's concern.

Council/Agency Member Tate said that the recommendation does not address the Leed design.

Council/Agency Member Carr recommended that the Council/Agency find a way tonight to allocate the additional dollars without identifying the source, pending the full review early next year so that the Agency does not fall behind on the schedule set for this project. This would allow the architect to continue their design work. The Council/Agency can look at RDA dollars early next year. If the Council/Agency cannot come to realization on funding, this project and/or other projects can be shelved.

Council/Agency Member Tate said that he did not want to hold up the project but that he did not want to identify the funding source this evening.

Council/Agency Member Carr recommended that the Council/Agency spend significant time looking at RDA funds early next year to identify a source of funding for the aquatics complex and the sports fields as well as other projects.

Mayor Pro Tempore/Vice-chairperson Chang said that she did not want to go out of town for a workshop as she has not yet recovered from an injury/illness. She said that she would agree to a three-day workshop in Morgan Hill in order to save City funds.

Mayor/Chairman Kennedy inquired when the working drawings would go out to bid? He stated that the Council/Agency needs to conduct its review of funding allocation before the project goes out to bid.

Senior Project Manager Dumas responded that the project is going out to bid in two phases in order to accelerate the schedule. The initial bid for pool structures will go out to bid in mid March and the second bid in late April.

Mayor/Chairman Kennedy noted that the Council/Agency would have decided its priorities by March 2003.

Council/Agency Member Sellers stated that he has similar concerns about the finances but felt that the Council/Agency would be wasting a lot more money if it did not identify the funding source as it proceeds. He felt that there was a point in which the Council/Agency could have reevaluated

whether the aquatics center was a priority but felt that this time has passed. He felt that the City was into a significant phase at this time and the City should proceed. To do otherwise would waste a lot more money. If the City slows down the process or deters the process, it would directly affect architectural costs as well as the indirect costs. He stated that he has little doubt that a year or two from now that construction costs would be higher than they are today. There are also direct and indirect staff costs. He felt that the bottom line is that the City has soccer facilities in town for the next year or two. There are also softball fields in the community, noting that the City has expanded these facilities to some degree. He stated that the City nor the region has an aquatic facility anywhere close to what is being proposed. He felt that the Council/Agency has made a commitment to this project and felt that the City needs to move forward with it. He stated that he was anxious about the \$2.7 million but he realizes that the City is looking at significant parts of subsequent phases that need to be completed anyway. He suggested that the Council/Agency proceed with the recommended action. It is to be understood that the Council/Agency would like to undertake a comprehensive review of the remaining funds.

Council/Agency Member Tate noted that the Council/Agency has not prioritized its visioning projects. He did not support this priority and believed that it was set because there was a deadlock. The Council/Agency was scheduling to a deadline with an assumed budget. Now, he is being told that the ground rules have changed and that the budget needs to go up. This results in taking funding from another project. He felt that the Council/Agency needs to go back and look at the priorities of the projects. He would like to see the project move forward but that he did not believe that the \$2.7 million should be taken until the Agency reallocates the projects.

Mayor Pro Tempore/Vice-chairperson Chang stated that she would agree to move forward with the project but that she did not want to allocate funding from the sport fields. Doing so would change the priority.

Council/Agency Member Carr stated that he would support moving forward with the aquatics complex, directing staff to move \$2.7 million into this project. The Council/Agency to decide where the \$2.7 million would come from early 2003.

Mayor/Chairman Kennedy opened the floor to public comment.

Gino Acevedo stated that this is the first time he has seen the numbers. He said that in looking at the numbers, a lot of it is not necessarily increases to the project itself, but modifying phase 1. It appears that additional recreational components have been moved into phase 1 that would have been part of phase 2 to make the entire facility user friendly. He said that the wind screen would not have to be done, noting that this is a high dollar item but not as high as other alternatives. He said that there were other items that were compromises in the design. He felt that the competition pool drove the aquatics center project and having the recreational component would help offset some of the costs of the competition side. He felt that it would be proven that the solar and energy efficiency costs would pay for themselves in the maintenance operation in less than three years. He agreed with the arguments that other sports groups are not being represented this evening. However, these groups have had the opportunity to address their comments at other meetings. He felt that the other sports groups have facilities, granted that they may not be adequate. He stated that the aquatics group does not have an adequate facility to perform the aquatics activities desired.

Chuck Dillmann said that the energy efficiency features could potentially be recovered from the state or PG&E who have programs that promote energy efficiency. He recommended that the City pursue these programs. He said that it has been his experience that in order to keep projects on budget, monthly budget updates were conducted. These monthly updates went a long way toward keeping things under control. He felt that a clubhouse could serve both facilities and provide a lot of operational cost offsets, controlling food consumption in the facility.

Mayor/Chairman Kennedy noted that the concession facility was designed to serve both the sports and aquatics facility.

No further comments were offered.

Action: *On a motion by Council/Agency Member Carr and seconded by Council/Agency Member Sellers, the Council/Agency unanimously (5-0) **Agreed** to direct staff to proceed with the design of the aquatics center with the understanding that the Council/Agency would reassess the prioritization of funding of Redevelopment Agency projects in early 2003 at a Council/Agency workshop. At that time, the Council/Agency will determine whether it would make sense to transfer funds from the sports complex project or another source to this project or cut something from the project, upon review of the bids for the aquatics complex.*

FUTURE COUNCIL-INITIATED AGENDA ITEMS

City Manager Tewes informed the Council that it appears that all Council members are available Friday, January 10, 2003 for a workshop to be held in Morgan Hill. He indicated that the Council may wish to consider meeting 1.5 days to address issues.

Council Member Tate recommended that three days be set aside for the workshop as the Council originally planned to meet three days.

Mayor Pro Tempore Chang indicated that she would agree to meet three days locally.

Council Member Carr stated that if the Council was not going to attend the three day structured program, he would agree to meet on January 10 and 11, indicating that these dates would be preferable to him.

Mayor Kennedy stated that he was available January 10 and 11.

Council Member Sellers requested that staff schedule the Tennant Avenue PUD, east of Johnson Lumber, that was previously discussed as part of the Butterfield Boulevard extension. He recommended that the Council relook at the phasing of the project.

Council Member Sellers stated that he requested that staff contact the engineering firm that reviewed the flood zone for the downtown. He said that the Downtown Committee and the Task Force have requested the removal of some key areas from the flood zone. He requested that staff/Council investigate the viability of doing so. He indicated that the initial phase would be to meet with

engineers and/or Water District staff. He indicated that he has spoken with Water District staff who are supportive of the idea. If necessary, the Council could consider providing resources to retain an engineering firm.

ADJOURNMENT

There being no further business, Mayor/Chairperson Kennedy adjourned the meeting at 11:27 p.m.

MINUTES RECORDED AND PREPARED BY

IRMA TORREZ, City Clerk/Agency Secretary